

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

KELLY MILLIGAN, ON BEHALF OF HIMSELF  
AND ALL OTHERS SIMILARLY SITUATED,

Plaintiff,

-against-

MERRILL LYNCH, PIERCE, FENNER &  
SMITH INC., BANK OF AMERICA CORP.,  
and JOHN/JANE DOE 1, THE SENIOR VICE  
PRESIDENT–HUMAN RESOURCES  
GLOBAL BANKING AND GLOBAL  
WEALTH AND INVESTMENT  
MANAGEMENT ADMINISTRATION AT  
BANK OF AMERICA CORP.,

Defendants,

and

JEFFREY DeWEES, REINHOLD WIGAND,  
JAY TAMKOC, WILLIAM SCHELLEN-  
BERG, MATTHEW MENDOZA, LUKE  
McKELVY and ALON HAIM,

Proposed Intervenor-Plaintiffs.

Civil Action No. 3:24-cv-00440  
KDB-DCK

Judge Kenneth D. Bell

Magistrate Judge David Keesler

**PROPOSED INTERVENOR-PLAINTIFFS' MOTION TO STAY**  
**PENDING ARBITRATION**

Proposed Intervenor-Plaintiffs Jeffrey DeWees, Reinhold Wigand, Jay Tamkoc, William Schellenberg, Matthew Mendoza, Luke McKelvy, and Alon Haim (“Intervenor-Plaintiffs”) by and through their counsel at Lax & Neville LLP, hereby move to stay these proceedings pursuant to 9 U.S.C. § 3 or, in the alternative, to (i) vacate the January 16, 2025 Order staying all non-summary

judgment proceedings and (ii) stay Merrill Lynch's Motion for Summary Judgment pending Named Plaintiff Kelly Milligan's motion for class certification.

For the reasons set forth in the accompanying Memorandum of Law, a stay of these proceedings in their entirety pending the FINRA Arbitration *DeWees et al v. Merrill Lynch*, FINRA No. 24-02157 is necessary to protect the rights of Intervenor-Plaintiffs and other putative members of the proposed class who have submitted or intend to submit their ERISA claims to FINRA arbitration.

In accordance with Local Rule 7.1, prior to filing this motion to intervene, counsel for Intervenor-Plaintiffs consulted with counsel for the parties and could not resolve the dispute reflected in this motion.

WHEREFORE, Intervenor-Plaintiffs respectfully request that the Court grant their motion to stay these proceedings pursuant to 9 U.S.C. § 3 or, in the alternative, to (i) vacate the January 16, 2025 Order staying all non-summary judgment proceedings and (ii) stay Merrill Lynch's Motion for Summary Judgment pending Named Plaintiff Kelly Milligan's motion for class certification.

Dated: February 14, 2025

**Teague Campbell Dennis & Gorham, LLP**

/s/ Jacob Wellman

Jacob Wellman  
PO Box 19207  
Raleigh, NC 27619  
Telephone: 919.719.4734  
Email: JWellman@teaguecampbell.com  
*Local Counsel to Proposed  
Intervenor-Plaintiffs*

**Lax & Neville, LLP**

/s/ Barry R. Lax

Barry R. Lax  
350 Fifth Ave. Suite 4640  
New York, NY 10118  
Telephone: 212-696-1999  
Email: blax@laxneville.com  
*Attorneys for Proposed  
Intervenor-Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Jacob Wellman, an attorney, hereby certify that on February 14, 2025, a copy the foregoing document was filed through the Court's CM/ECF Electronic Filing System, which will transmit notice of such filing to all counsel of record.

/s/Jacob Wellman  
Jacob Wellman, Esq.